

MINUTES
Regular Council Meeting
Council Chambers
Monday, September 26, 2016
8:00pm

CALL THE MEETING TO ORDER

Council President Bromberg called the meeting to order at 8:00 pm in the Council Chambers located at 406 Rivervale Road, River Vale, New Jersey 07675.

SALUTE TO FLAG

Council President Bromberg asked all in attendance to rise and join him in a Salute to the Flag.

SUNSHINE LAW STATEMENT

Council President Bromberg read the Sunshine Statement into the record, as follows:

"In accordance with the provisions set forth in the Open Public Meetings Law, notification of this meeting has been sent to all officially appointed Township newspapers and notice is posted at the Municipal Office."

ROLL CALL

Councilman Ben-Yishay, Councilman Criscuolo, Councilwoman Sieg and Council President Bromberg were present. Councilman Donovan was absent.

Also present: Township Attorney Silvana Raso, Lisa Neiman, Township Engineers Office and Township Clerk, Karen Campanelli.

Council Comments

There were no Council comments this evening.

Engineer's Report

Ms. Neiman reported on the 2016 Road Program. The road milling and paving is complete however there are still catch basin repairs to be done. On September 19th Chris Statile and the Township Planner Caroline Reiter presented the draft Master Plan zoning changes to the Planning Board. Ms. Neiman explained that once the Planning Board is satisfied with the changes they will be presented for adoption at a specially advertised meeting; possibly in October. Ms. Neiman concluded her report with a brief update on pending grant applications.

1st Hearing of the Public

Motion by Councilman Criscuolo; second by Councilman Ben-Yishay to open the meeting to the public.

~~Chris Wahmann—611 Poplar Road~~ Mr. Wahmann urged the Council to listen to him. He explained that he has researched this issue further. Mr. Wahmann then read portions what he said was an amended contract between the County of Bergen and the Township of River Vale dated December 23, 2002. In summary, Mr. Wahmann referenced the language that stated the Township should maintain and insure the properties on Poplar Road. He further cited that the property will be preserved and maintained by the Township and be used for Open Space, conservation, nature sanctuary, passive recreation and available for public access. Mr. Wahmann further read that if the Township ceases to use the preserved property for its intended original use the Township must reimburse the County. Mr. Wahmann also recited numerous definitions of the word maintenance from Blacks Law.

Council President Bromberg commented that the Council is in agreement with the Mayor. Council President Bromberg also understands Mr. Wahmann's concerns with maintaining the property. It is also his understanding that the Administration has been in touch with our Risk Managers who have advised as to the level the property be maintained. Council President Bromberg reported that with respect to the Wild Life Sanctuary; it is a sanctuary where trees do fall and create new habitat. Also, the grant money was used to acquire the property and not necessarily maintain it.

Councilman Criscuolo pointed out one of defined terms for maintenance cited by Mr. Wahmann; which is to hold and keep in existing state.

The Township Attorney added that Mr. Wahmann is citing from a legal document and he has taken the position that the Township is not abiding by the document. She further stated that at this point it's a legal issue and should then be decided in court.

~~Fred Epstein—625 Poplar Road~~ Mr. Epstein agrees with the Council; he has driven around other areas and when the trees fall that's where they are left. He also appreciates that the Town has cleared the areas that could be cleanup up in particular the waking paths. Mr. Epstein suggested they walk the trail and asked how they would spend the money to make it better. Mr. Epstein also feels the open space funds that were spent on the recreation fields were not done appropriately. He would like to see the open space funds used for what they were intended; on open space.

There being no further questions or comments motion by Councilman Criscuolo; seconded by Councilwoman Sieg to close the meeting to the public.

PUBLIC HEARING

Open Space Trust Fund Municipal Park Improvements Application River Vale Country Club Pond Aerators

Motion by Councilman Criscuolo; seconded by Councilwoman Sieg to open the public hearing for the Open Space Trust Fund Application.

~~Fred Epstein—625 Poplar Road~~—Mr. Epstein questioned whether the ponds were part of the Town's open space. Council President Bromberg clarified that the ponds are on the golf course and considered open space.

There being no further questions or comments from the public. Motion by Councilman Criscuolo; seconded by Councilwoman Sieg to close the public hearing.

RESOLUTIONS

Motion by Councilman Ben-Yishay; seconded by Councilwoman Sieg to approve Resolutions #2016-200 through 212 as a Consent Agenda as follows:

Resolution #2016-200

RESOLUTION APPROVING MINUTES AUGUST 22, 2016 REGULAR MEETING

BE IT RESOLVED, by the Township Council of the Township of River Vale that the minutes of the August 22, 2016 Regular Meeting of the Township Council are hereby approved.

Resolution #2016-201

RESOLUTION APPROVING THE RAFFLE LICENSE FOR THE JR. WOMENS CLUB OF HARRINGTON PARK

BE IT RESOLVED that the following license to conduct a Trick Tray is issued to:

NAME:	Jr. Womens Club of Harrington Park P.O. Box 1 Harrington Park, NJ 07640
LOCATION OF RAFFLE:	River Vale County Club 660 Rivervale Road River Vale, NJ 07675
DATE OF RAFFLE:	December 3, 2016 (8:00am to 12:00pm)
I.D. #:	198-8-31563
RAFFLE LICENSE:	RL 474

BE IT FURTHER RESOLVED that said license shall be issued subject to all rules and regulations of the Legalized Games of Chance Control Commission of the State of New Jersey.

Resolution #2016-202

RESOLUTION APPROVING THE RAFFLE LICENSE FOR PARENT CLUB IMMACULATE HEART ACADEMY

BE IT RESOLVED that the following license to conduct an off premises 50/50 raffle is issued to:

NAME: Parents Club Immaculate Heart Academy
500 Van Emburgh Avenue
Washington Township, NJ 07676

LOCATION OF RAFFLE: Florentine Gardens
97 Rivervale Road
River Vale, NJ 07675

DATE OF RAFFLE: December 4, 2016 (11:00am to 3:00pm)

I.D. #: 522-5-13365

RAFFLE LICENSE: RL 475

BE IT FURTHER RESOLVED that said license shall be issued subject to all rules and regulations of the Legalized Games of Chance Control Commission of the State of New Jersey.

Resolution #2016-203

RESOLUTION APPROVING THE RAFFLE LICENSE FOR PARENTS CLUB IMMACULATE HEART ACADEMY

BE IT RESOLVED that the following license to conduct a merchandise raffle is issued to:

NAME: Parent Club Immaculate Heart Academy
500 Van Emburgh Avenue
Washington Township, NJ 07676

LOCATION OF RAFFLE: Florentine Gardens
97 Rivervale Road
River Vale, NJ 07675

DATE OF RAFFLE: December 4, 2016 (6:30pm to 10:00pm)

I.D. #: 522-5-13365

RAFFLE LICENSE: RL 476

BE IT FURTHER RESOLVED that said license shall be issued subject to all rules and regulations of the Legalized Games of Chance Control Commission of the State of New Jersey.

Resolution #2016-204

RESOLUTION APPROVING THE RAFFLE LICENSE FOR UNICO WESTWOOD

BE IT RESOLVED that the following license to conduct an off premises 50/50 raffle is issued to:

NAME: Unico Westwood
PO Box 362
Westwood, NJ 07675

LOCATION OF RAFFLE: Florentine Gardens
97 Rivervale Road
River Vale, NJ 07675

DATE OF RAFFLE: November 9, 2016 (9:00pm)

I.D. #: 547-4-40796

RAFFLE LICENSE: RL 477

BE IT FURTHER RESOLVED that said license shall be issued subject to all rules and regulations of the Legalized Games of Chance Control Commission of the State of New Jersey.

Resolution #2016-205

RESOLUTION

**STATE TAX APPEAL JUDGMENT
REFUND OF TAX OVERPAYMENTS**

WHEREAS, the following property owner(s) were rendered a State Tax Appeal Judgment decision for a reduced assessment of their 2016 property taxes; and

WHEREAS, the property owners are requesting a refund for overpayment of their taxes.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of River Vale, that the Treasurer is hereby authorized to issue municipal checks payable as follows:

Block 202.01, Lot 15

\$746.85 (4th quarter \$497.90 &
1st/2nd quarter \$248.95)

Refund to:

Koons, Kenneth H & B J
707 Orangeburg Road
River Vale, NJ 07675

Block 801, Lot 12.12

\$669.30 (4th quarter)

Refund to:

Sheehy, Mark & Jacqueline
609 Peterson Farm Court
River Vale, NJ 07675

Resolution #2016-206

ENDORSEMENT OF 2017 COMMUNITY DEVELOPMENT BLOCK GRANT ADA COMPLIANT IMPROVEMENTS - AMBULANCE CORPS RESTROOMS

WHEREAS, a Bergen County Community Development grant of \$25,000 has been proposed by the Township of River Vale for ADA compliant improvements to the Ambulance Corps restrooms in the Township of River Vale and;

WHEREAS, pursuant to the State Interlocal Services Act, Community Development funds may not be spent in a municipality without authorization by the Governing Body, and;

WHEREAS, the aforesaid project is in the best interest of the people of the Township of River Vale, and;

WHEREAS, this resolution does not obligate the financial resources of the municipality and is intended solely to expedite expenditure of the aforesaid CD funds.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Township of River Vale hereby confirms endorsement of the aforesaid project, and

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to the Director of the Bergen County Community Development Program so that implementation of the aforesaid project may be expedited.

Resolution #2016-207

RESOLUTION ENDORSING THE TOWNSHIP'S PARTICIPATION IN THE BERGEN COUNTY AGGREGATE ENERGY PROCUREMENT COOPERATIVE SYSTEM PROGRAM (#206BCPA)

WHEREAS, the Township of River Vale is a Participating Member of Bergen County Aggregate Energy Procurement Cooperative Pricing System (hereinafter referred to as #206BCPS), eligible thereby to obtain natural gas and/or electricity supply services for its own use through one or more contracts to be awarded to natural gas or electricity suppliers following said bids for natural gas or electricity supply services pursuant to the aggregation program; and

WHEREAS, the #206BCPS will from time to time during the Effective Period as defined below solicit bids for natural gas and/or electricity supply service through an energy aggregation program in which the County of Bergen will act as Lead Agency of the #206BCPS in accordance with the "Local Public Contracts Law," N.J.S.A.40A:11-11, and the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49. ("EDECA") and the regulations promulgated thereunder; and

WHEREAS, the County of Bergen as the Lead Agency for the #206BCPS, will from time to time during the Effective Period (from date of adoption until the expiration of the Cooperative

Pricing system, hereinafter referred to as “Effective Period”) issue one or more Requests for Bids for natural gas or electricity supply services on behalf of the #206BCPS pursuant to the Local Public Contracts Law and EDECA; and

WHEREAS, by joining the #206BCPS, the Township of River Vale agreed to purchase natural gas and/or electricity needed for its own use during the Effective Period through any electricity or natural gas supplier(s) awarded a contract, unless it opts in or out prior to the beginning of a new supply contract in accordance with the terms of the Cooperative Pricing Agreement previously executed between the parties, it being understood that the Lead Agency is responsible for compliance with the provisions of Local Public Contracts Law; and

WHEREAS, to facilitate the award of aggregate supply contracts for gas and/or electric supply service, the Township of River Vale authorizes the execution of a new Cooperative Pricing System Agreement, a copy of which is annexed hereto, which agreement expressly authorizes the Lead Agency to sign a single contract for natural gas or electricity supply service, as applicable, on behalf of the Township of River Vale when the Township participates in a procurement, avoiding the need for each Participating member to sign the agreement with the supplier(s); and

WHEREAS, due to significant volatility and the potential for price increases in the electricity generation and wholesale natural gas market, the procurement model requires that Participating Members preauthorize the Lead Agency to award contracts for electricity supply and/or Natural Gas Service in each bid group to one or more natural gas or electricity suppliers that submit bids which are reasonably forecasted to provide a pre-determined estimated savings to the Participating Member based upon its previous natural gas usage and utility-provided Basic Generation Service rates; and

WHEREAS, the Lead Agency will only award contracts for said natural gas or electricity services to natural gas or electricity suppliers that submit bids with pricing that is at least 5% lower than the average price for utility-provided basic generation service;

WHEREAS, the Lead Agency will notify the Department of Community Affairs’ Division of Local Government Services by mail prior to the issuance a Request for Bids for natural gas or electricity supply services, with the understanding that if the Division of Local Government Services does not respond within 10 business days, it will be deemed to have approved the issuance of the Request for Bids or the Request for Rebids; and

WHEREAS, earlier this year, the #206BCPS carried out a procurement for electricity supply service, resulting in 2-year fixed rate for those members of the #206BCPS that opted to participate; and

WHEREAS, the #206BCPS has begun a new procurement for natural gas supply service; and

WHEREAS, by adopting this resolution, the Township of River Vale elects to **opt in** to the current procurement for natural gas supply service; and

NOW THEREFORE BE IT RESOLVED by the governing body of the Township of River Vale, New Jersey, that:

1. The annexed Cooperative Pricing System Agreement is hereby authorized and approved, and the Mayor, Manager, or other authorized official of the Township of River Vale is

[Type here]

authorized to execute same.

2. The Township of River Vale hereby **opts in** to the current procurement for natural gas supply, and binds itself to the #206BCPS to purchase all natural gas needed for its own use during the Effective Period from the natural gas supplier or suppliers awarded a contract for natural gas supply services by the Lead Agency.
3. The Lead Agency of the #206BCPS is hereby authorized to award one or more contracts, and execute one or more a master performance agreements that obligates the Township of River Vale to purchase natural gas at the terms and conditions stated therein with a third-party supplier or suppliers who have been awarded the contract or contracts by the Lead Agency on behalf of the participating members of the #206BCPS (or any CPS number to be assigned in the future), provided further that all such contracts shall be at prices reasonably forecast and estimated by the Lead Agency to provide savings to the Township of River Vale of at least five percent (5%) relative to the price charged for basic generation service by the public utility company that would otherwise provide such service.
4. #206BCPS is authorized to continue to bid to obtain natural gas supply services at any time during the Effective Period, including - for example - a rebid if energy market conditions do not initially lead to a successful bid, on additional dates to be determined by the Lead Agency; and
5. This Resolution shall take effect immediately upon passage.
6. The authorization provided to the County of Bergen pursuant to the Local Public Contracts Laws (N.J.S.A. 40A:11-11(5), Administrative Code (N.J.A.C. 5:34-7.1) shall be valid until the Cooperative Pricing System expires. Any rescission or expiration of this resolution shall not affect any Agreements entered into prior to such rescission or expiration.

Resolution #2016-208

REFUND

(First Friends Registration Fee)

WHEREAS, the following resident has requested a refund of the First Friends Registration fee; and

WHEREAS, the Treasurer has certified the availability of funds in the Recreation Account.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of River Vale that said refunds are approved and the Treasurer is hereby authorized to issue a municipal check payable as follows:

Cheryl Petrillo
671 Blue Hill Road
River Vale, NJ 07675

\$ 150.00

Resolution #2016-209

RESOLUTION ALLOWING THE TOWNSHIP TO EXCEED THE BID THRESHOLD

WHEREAS, the Township wishes to exceed the bid threshold of \$17,500.00 for the provision of quarterly cleaning services from the following vendor:

**NMS Inc.
Janitorial Services General Construction
63 Tenafly Road
Englewood, New Jersey 07631**

NOW, THEREFORE, BE IT RESOLVED, that the Township of River Vale authorizes the Purchasing Agent to exceed the bid threshold.

Resolution #2016-210

**Enabling Resolution - 2016 Bergen County Open Space, Recreation,
Farmland & Historic Preservation Trust Fund Grant
River Vale Country Club Aerators**

WHEREAS, the Bergen County Open Space, Recreation, Farmland & Historic Preservation Trust Fund ("County Trust Fund"), provides matching grants to municipal governments and to nonprofit organizations for assistance in the development or redevelopment of outdoor municipal recreation facilities; and,

WHEREAS, the Township of River Vale desires to further the public interest by obtaining a matching grant of \$11,500 from the County Trust Fund to fund the following project: River Vale Country Club Aerators; and,

WHEREAS, the governing body/board has reviewed the County Trust Fund Program Statement, and the Trust Fund Municipal Program Park Improvement application and instructions and desires to make an application for such a matching grant and provide application information and furnish such documents as may be required; and,

WHEREAS, as part of the application process, the governing body/board received held the required Public Hearing to receive public comments on the proposed park improvements in the application on September 26, 2016; and,

WHEREAS, the County of Bergen shall determine whether the application is complete and in conformance with the scope and intent of the County Trust Fund; and,

WHEREAS, the applicant is willing to use the County Trust Fund in accordance with such rules, regulations and applicable statutes, and is willing to enter into an agreement with the County of Bergen for the above named project and ensure its completion on or about the project contract expiration date.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of River Vale:

1. That it is hereby authorized to submit the above completed project application to the County by the deadline of October 13, 2016, as established by the County; and,
2. That, in the event of a County Trust Fund award that may be less than the grant amount requested above, the Township Council of the Township of River Vale has, or will secure, the balance of funding necessary to complete the project, or modify the project as necessary; and,
3. That the Township Council of the Township of River Vale is committed to providing a dollar for dollar cash match for the project; and,
4. That only those park improvements identified and approved in the project application, its Trust Fund contract, or other documentation will be considered eligible for reimbursement.
5. That the Township Council of the Township of River Vale agrees to comply with all applicable federal, state, and local laws, rules, and regulations in its performance of the project; and,
6. That this resolution shall take effect immediately.

Resolution #2016-211

REFUND

(Rutgers S.A.F.E.T.Y Clinic Registration Fee)

WHEREAS, the following resident has requested a refund of the Rutgers S.A.F.E.T.Y Clinic Registration fee; and

WHEREAS, the Treasurer has certified the availability of funds in the Recreation Account.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of River Vale that said refunds are approved and the Treasurer is hereby authorized to issue a municipal check payable as follows:

David Fillis
637 Woodside Avenue
River Vale, NJ 07675

\$ 40.00

Resolution #2016-212

AUTHORIZE PAYMENT OF BILLS

BE IT RESOLVED by the Township Council of the Township of River Vale, County of Bergen, State of New Jersey, that the Business Administrator be, and hereby is authorized to pay the following claims:

CURRENT ACCOUNT claims in the amount of:	\$5,995,035.93
RESERVE CURRENT ACCOUNT claims in the amount of:	\$0.00
GOLF COURSE UTILITY OPERATING ACCOUNT claims in the amount of:	\$124,921.63
ANIMAL TRUST ACCOUNT claims in the amount of:	\$0.00
MISCELLANEOUS TRUST ACCOUNT claims in the amount of:	\$0.00
RECREATION TRUST ACCOUNT claims in the amount of:	\$7,005.00
PRIVATE DUTY TRUST ACCOUNT claims in the amount of:	\$0.00
SNOW REMOVAL TRUST ACCOUNT claims in the amount of:	\$0.00
HOUSING TRUST ACCOUNT claims in the amount of:	\$0.00
JUNIOR POLICE ACADEMY TRUST ACCOUNT claims in the amount of:	\$0.00
GOLF COURSE UTILITY CAPITAL ACCOUNT claims in the amount of:	\$0.00
OPEN SPACE TRUST ACCOUNT claims in the amount of:	\$207,000.00
CAPITAL ACCOUNT claims in the amount of:	\$435,011.76
PLANNING BOARD TRUST ACCOUNT claims in the amount of:	\$0.00
SPECIAL TRUST ACCOUNT claims in the amount of:	\$120.00
ZONING BOARD TRUST ACCOUNT claims in the amount of:	\$0.00
TOTAL CLAIMS TO BE PAID	\$6,769,094.32

BE IT FURTHER RESOLVED by the Township Council of the Township of River Vale that the following claims have been paid by the Business Administrator prior to the Bill List Resolution in the following amounts:

CURRENT claims in the amount of:	\$169,601.72
RESERVE CURRENT ACCOUNT claims in the amount of:	\$0.00
GOLF COURSE UTILITY OPERATING ACCOUNT claims in the amount of:	\$49,621.78
GOLF COURSE UTILITY CAPITAL ACCOUNT claims in the amount of:	\$7,081.40
UNEMPLOYMENT TRUST ACCOUNT claims in the amount of:	\$738.51
STATUTORY ACCOUNT claims in the amount of:	\$479,516.54
SNOW REMOVAL TRUST ACCOUNT claims in the amount of:	\$0.00
RECREATION TRUST ACCOUNT claims in the amount of:	\$12,260.20
HOUSING TRUST ACCOUNT claims in the amount of:	\$863.50
ANIMAL TRUST ACCOUNT claims in the amount of:	\$12.60
PRIVATE DUTY TRUST ACCOUNT claims in the amount of:	\$19,365.79
ACCUMULATED ABSENCES TRUST ACCOUNT claims in the amount of:	\$0.00
CAPITAL ACCOUNT claims in the amount of:	\$31,073.08
MISCELLANEOUS TRUST ACCOUNT claims in the amount of:	\$0.00
SPECIAL TRUST ACCOUNT claims in the amount of:	\$2,777.00
ZONING BOARD TRUST ACCOUNT claims in the amount of:	\$2,210.73
BOND TRUST ACCOUNT claims in the amount of:	\$0.00
TOTAL CLAIMS PAID	\$775,122.85

TOTAL BILL LIST RESOLUTION **\$7,544,217.17**

**MANUAL DISBURSEMENTS
BILL LIST FOR SEPTEMBER 26, 2016**

08/30/2016 – Transfer Payroll	\$ 245,728.85
09/15/2016 – Transfer Payroll	\$ 233,787.69
TOTAL STATUTORY ACCOUNT DISTRIBUTIONS	\$ 479,516.54

[Type here]

ROLL CALL VOTE

Councilman Ben-Yishay, Councilman Criscuolo, Councilwoman Sieg and Council President Bromberg voted yes. Councilman Donovan was absent.

Ordinances for 1st Reading

There were no Ordinances for 1st Reading this evening.

Ordinances for Public Hearing and 2nd Reading

ORDINANCE #318-2016

~~Motion to Adopt:~~ Councilwoman Sieg

~~Second:~~ Councilman Criscuolo

Motion by Councilman Criscuolo; seconded by Councilman Ben-Yishay to open the Public Hearing on Ordinance #318-2016.

There being no questions or comments. Motion by Councilman Criscuolo; seconded by Councilwoman Sieg to close the Public Hearing on Ordinance #318-2016.

AN ORDINANCE AMENDING AND ADJUSTING MUNICIPAL CLASS POSITION TITLES AND SALARY RANGES FOR OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF RIVER VALE

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF RIVER VALE, COUNTY OF BERGEN AND STATE OF NEW JERSEY, as follows, until a subsequent salary ordinance is adopted:

Section 1. The salary ranges per annum for the following officer(s) and employee(s) of the Township of River Vale in the Classified Service (staff) shall be as follows:

Human Resources Coordinator	\$1.00 - \$5,000
Municipal Tax Collector	\$45,000 - \$51,590
Municipal Deputy Tax Collector	\$1.00 - \$5,000
Treasurer	\$50,000 - \$72,000

This Ordinance shall take effect following adoption and approval in a time and manner prescribed by law.

ROLL CALL VOTE

Councilman Ben-Yishay, Councilman Criscuolo, Councilwoman Sieg and Council President Bromberg voted yes. Councilman Donovan was absent.

ORDINANCE #319-2016

Motion to Adopt: Councilman Criscuolo

Second: Councilman Ben-Yishay

Motion by Councilman Criscuolo; seconded by Councilman Ben-Yishay to open the Public Hearing on Ordinance #319-2016.

There being no questions or comments. Motion by Councilman Criscuolo; seconded by Councilwoman Sieg to close the Public Hearing on Ordinance #319-2016.

AN ORDINANCE OF THE TOWNSHIP OF RIVER VALE, COUNTY OF BERGEN NEW JERSEY AMENDING CHAPTER 43 OF THE CODE ENTITLED "AFFORDABLE HOUSING" ARTICLE II DEVELOPMENT FEES

1. Purpose

- a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules. This ordinance establishes standards for the collection, maintenance, and expenditure of development fees. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low-and moderate-income housing. This ordinance shall be interpreted within the framework of the Superior Court of New Jersey's rulings on development fees.

2. Basic requirements

- a) The Township of River Vale shall not spend development fees until the Superior Court has approved a plan for spending such fees.

3. Definitions

- a) The following terms, as used in this ordinance, shall have the following meanings:
 - i. "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

ii. "COAH" means the New Jersey Council on Affordable Housing.

iii. "Development fee" means funds paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in COAH's rules.

iv. "Equalized assessed value" means the value of a property determined by the municipal tax assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of issuance of a building permit may be obtained utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the municipal tax assessor.

v. The Superior Court of New Jersey means the court with jurisdiction over the Township's affordable housing development and obligation.

4. Residential Development fees

a) Within the A, A-1, B, PRD and SHD Residential Zoning Districts, residential developers shall pay a fee of 1 percent of the equalized assessed value for residential development, provided no increased density is permitted.

b) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6 percent of the equalized assessed value for each additional unit that may be realized. **If the zoning on a site has changed during the two-year period preceding the filing of the "d" variance application, the base density for the purpose of calculating the bonus developments fee shall be the highest density permitted by right during the two-year period filing of the "d" variance application.**

5. Non-residential Development fees

a) Within the C, PO and EO Zoning Districts, non-residential developers shall pay a fee of 2 percent of the equalized assessed value for non-residential development.

b) If an increase in floor area ratio is approved pursuant to N.J.S.A. 40:55D-70d(4), then the additional floor area realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of 6 percent of the equalized assessed value for non-residential development. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base floor area for the purposes of calculating the bonus development fee shall be the highest floor area permitted by right during the two-year period preceding the filing of the variance application.

6. Eligible exactions, ineligible exactions and exemptions

a) Affordable housing developments shall be exempt from development fees. All other forms of new construction shall be subject to development fees.

b) Developments that have received preliminary or final approval prior to the imposition of a municipal development fee shall be exempt from development fees unless the developer seeks a substantial change in the approval.

7. Collection of fees

a) Fifty percent of the development fee will be collected at the time of issuance of the building permit. The remaining portion will be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

8. Contested fees

a) Imposed and collected development fees that are challenged shall be placed in an interest bearing escrow account by the Township of River Vale. If all or a portion of the contested fees are returned to the developer, the accrued interest on the returned amount shall also be returned.

9. Affordable Housing trust fund

a) There is hereby created a separate, interest-bearing housing trust fund in a depository designated by the Township for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls. All development fees paid by developers pursuant to this ordinance shall be deposited into this fund.

b) Within seven days from the opening of the trust fund account, the Township of River Vale shall provide the Superior Court with written authorization, in the form of a three-party escrow agreement between the municipality, the depository, and the Superior Court to permit the Superior Court to direct the disbursement of the funds as provided for in N.J.A.C. 5:94-6.16(b).

c) No funds shall be expended from the affordable housing trust fund unless the expenditure conforms to a spending plan approved by the Superior Court. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Superior Court.

10. Use of funds

a) Funds deposited in the housing trust fund may be used for any activity approved by the Superior Court to address the municipal fair share. Such activities include, but are not limited to: rehabilitation, new construction, RCAs subject to the provisions of N.J.A.C. 5:94-4.4(d), ECHO housing, purchase of land for affordable housing,

improvement of land to be used for affordable housing, purchase of housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, or administration necessary for implementation of the Housing Element and Fair Share Plan. The expenditure of all funds shall conform to a spending plan approved by the Superior Court.

- b) Funds shall not be expended to reimburse the Township of River Vale for past housing activities.
- c) After subtracting development fees collected to finance an RCA, a rehabilitation program or a new construction project that are necessary to address the Township of River Vale affordable housing obligation, at least 30 percent of the balance remaining shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, and rental assistance.
 - ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the third round municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner shall entitle River Vale to bonus credits pursuant to N.J.A.C. 5:94-4.22.
 - iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) The Township of River Vale may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:94-7.
- e) No more than 20 percent of the revenues collected from development fees each year, exclusive of the fees used to fund an RCA, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the Superior Court's monitoring requirements. Development fee administrative costs are calculated and may be expended at the end of each year or upon receipt of the fees.

11. Monitoring

- a) The Township of River Vale shall complete and return to the Superior Court all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, and funds from the sale of units with extinguished controls, and the expenditure of revenues and implementation of the plan certified by the Superior Court. All monitoring reports shall be completed on forms designed by the Superior Court.

12. Ongoing collection of fees

- a) The ability for the Township of River Vale to impose, collect and expend development fees shall expire with its substantive certification on July 26, 2015 unless the Township of River Vale has filed an adopted Housing Element and Fair Share Plan with the Superior Court, has petitioned for substantive certification, and has received the Superior Court's approval of its development fee ordinance. If the Township of River Vale fails to renew its ability to impose and collect development fees prior to July 26, 2015, it may resume the imposition and collection of development fees only by complying with the requirements of N.J.A.C. 5:94-6. The Township of River Vale shall not impose a development fee on a development that receives preliminary or final approval after the expiration of its substantive certification on July 26, 2015, nor will the Township of River Vale retroactively impose a development fee on such a development. The Township of River Vale will not expend development fees after the expiration of its substantive certification on July 26, 2015.

This Ordinance shall take effect following adoption and approval in a time and manner prescribed by law.

ROLL CALL VOTE

Councilman Ben-Yishay, Councilman Criscuolo, Councilwoman Sieg and Council President Bromberg voted yes. Councilman Donovan was absent.

2nd Hearing of the Public

Motion by Councilman Ben-Yishay; second by Councilman Criscuolo to open the meeting to the public.

~~Chris Wahmann—611 Poplar Road~~ continued his comments regarding the Open Space properties. Mr. Wahmann stated that he has brought the information and contract forward and it very specifically states maintenance.

Council President Bromberg commented that they have a difference regarding the prioritization and definition of the word maintenance. Council President Bromberg feels that most of our residents appreciate the maintenance we provide to our recreation fields. He added that the vast

[Type here]

majority of our residents and their children enjoy the Township open spaces. He also offered any resident the opportunity to attend a future council or budget meeting to advise them as to how they would like their tax dollars and open space funds spent. Council President Bromberg again stated that he is sorry to have this disagreement over the prioritization and definition of maintenance and what level of maintenance different open spaces require.

~~Fred Epstein—625 Poplar Road~~ Mr. Epstein agreed the field are taken care of beautifully but that is not open space. The Township Attorney clarified that recreational fields are considered open space.

There being no further questions or comments from the public motion by Councilman Criscuolo; second by Councilwoman Sieg to close the meeting to the public.

ADJOURNMENT

Motion by Councilman Criscuolo; seconded by Councilwoman Sieg to adjourn the meeting at 8:25pm.

ATTEST:
Karen Campanelli
Township Clerk

Council President
Mark Bromberg